

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

JUDITH K. ROGAN, INDIVIDUALLY AND )  
AS TRUSTEE OF THE JUDITH K ROGAN )  
REVOCABLE TRUST , )  
Plaintiff, ) No. 2:07-CV-403  
v. )  
UNITED STATES OF AMERICA AND ) Judge Joseph S Van Bokkelen  
DEXIA CREDIT LOCAL F/K/A DEXIA ) Magistrate Judge Paul R Cherry  
PUBLIC FINANCE AND CREDIT BANK )  
AND CREDIT LOCAL DE FRANCE, )  
Defendants. )

**UNIT STATES' RESPONSE TO PLAINTIFF'S OBJECTIONS  
TO THE MAGISTRATE'S ORDER TRANSFERRING THIS CASE TO  
THE DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS**

The United States of America, by David Capp, Acting United States Attorney for the Northern District of Indiana, responds to Judith Rogan's Objections to Magistrate Judge Cherry's order transferring this case to the Northern District of Illinois. The United States fully concurs and adopts co-defendant Dexia Credit's arguments made in its response to plaintiff's objections (Doc. No. 65). In opposing defendants' motion to transfer, Rogan made a strategic decision to not contest the facts, and most especially left uncontested the scores of exhibits attached to the motion. *See* Dexia Response, 10-22. Rogan also made a strategic decision to focus her legal arguments on the "first-to-file" rule to the exclusion or marginalization of all others. *Id.* at 2-3. Rogan now objects, but does not question decisional errors the magistrate judge actually made. For example, the magistrate never made any evidentiary ruling because Rogan never objected to any evidence. Rogan is really seeking a *de novo* hearing, but FED. R. CIV. P. 72(a) does not allow that. *Kasper v. Cooper Canada Ltd.*, 120 F.R.D. 58, 59 (N.D. Ill. 1988) (district court refuses to consider affidavit and

arguments not presented to magistrate). The district court should not relieve Rogan of the consequences of the strategic decisions she made by granting her implicit request for a new hearing and considering arguments she chose not to make to Magistrate Judge Cherry. Furthermore, to allow the *de novo* hearing Rogan implicitly requests would serve to undermine the Federal Magistrates Act, which was intended to “alleviate the burden of the trial judge in pre-trial matters.” *Health Corp. Of America v. New Jersey Dental Assoc.*, 77 F.R.D. 488, 492 (D.N.J. 1978). Allowing Rogan’s new arguments that were not advanced before the magistrate sends the message that such magistrate proceedings are not required to be litigated with deliberation, care and completeness because the parties can correct errors, of judgment or otherwise, by simply requesting a new hearing before the district court as Rogan implicitly does here.

### **Conclusion**

For all the reasons stated in Dexia Credit’s Response (Doc. No. 65) and above, the court should overrule Judith Rogan’s objections and affirm the order transferring this case.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that on February 24, 2008, Joseph A. Stewart, electronically filed the foregoing – United States' Response to Plaintiff's Objections to the Magistrate's Order Transferring this Case to the District Court for the Northern District of Illinois – with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Respectfully submitted,

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